

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THIS DOCUMENT APPLIES TO
PLAINTIFF(S):

Pertains To Civil Action No.:

DAVID CASAREZ, INDIVIDUALLY,
AND AS SUCCESSOR IN INTEREST
AND SURVIVING HEIR OF CAROL
SULLIVAN, DECEASED,

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

Plaintiff

SHORT FORM COMPLAINT FOR DAMAGES

V.

- AMYLIN PHARMACEUTICALS, LLC,
- ELI LILLY AND COMPANY,
- MERCK SHARP & DOHME CORP.,
- NOVO NORDISK INC.,

Case No.: 13md2452 AJB(MDD)

(Check all the above that apply)

Defendants

SHORT FORM COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff(s) named herein, and for Complaint against the Defendants named herein, incorporates and fully adopts the Master Form Complaint (the “Master Complaint”) in MDL No. 2452 by reference. Plaintiff(s) further shows the Court as follows:

JURISDICTION AND VENUE

1. Jurisdiction in this Complaint is based on:

☒ Diversity of Citizenship

Other (As set forth below, the basis of any additional ground for jurisdiction must be pleaded in sufficient detail as required by the applicable Federal Rules of Civil Procedure):

1 2. District Court and Division in which you might have otherwise filed
2 absent the direct filing order entered by this Court: Western District of Texas, El
3 Paso Division.

4 3. Plaintiff(s) further adopts the allegations contained in the following
5 paragraphs of the Jurisdiction and Venue section of the Master Complaint:

6 Paragraph 10;
7 Paragraph 11;
8 Paragraph 12;
9 Paragraph 13;
10 Paragraph 14;
11 Paragraph 15; and/or

12 Other allegations as to jurisdiction and venue (Plead in sufficient detail in
13 numbered paragraphs (numbered to begin with 3(a)) as required by the
14 applicable Federal Rules of Civil Procedure): _____

15 _____.

16 PLAINTIFF/INJURED PARTY INFORMATION

17 4. Injured/Deceased Party's Name: Carol Sullivan (the "Injured Party").

18 5. Any injury (or injuries) suffered by the Injured Party in addition to
19 those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to
20 have been caused by the drug(s) ingested as set forth below (put "None" if
21 applicable): N/A.

22 6. Injured Party's spouse or other party making loss of consortium claim:
23 N/A.

24 7. Other Plaintiff(s) and capacity, if Injured Party is deceased or
25 otherwise incapacitated (i.e., administrator, executor, guardian, representative,
26 conservator, successor in interest): N/A.

27 8. City(ies) and State(s) of residence of Injured Party at time of ingestion
28 of the Drug(s): El Paso, TX.

9. City and State of residence of Injured Party at time of pancreatic cancer diagnosis (if different from above): El Paso, TX.

10. City and State of residence of Injured Party at time of diagnosis of other Injury(ies) alleged in Paragraph 5 (if different from above): N/A.

11. If applicable, City and State of current residence of Injured Party (if different from above): Fort Morgan, CO.

12. If applicable, City and State of residence of Injured Party at time of death (if different from above): N/A.

13. If applicable, City and State of current residence of each Plaintiff, including any Consortium and or other Plaintiff(s) (i.e., administrator, executor, guardian, representative, conservator, successor in interest): Morgan Hill, CA.

14. Check box(es) of product(s) (the "Drugs") for which you are making claims in this Complaint:

Byetta. Dates of use: _____.

Januvia. Dates of use: _____

Janumet. Dates of use:

Victoza. Dates of use: July 12, 2013 to February 2014

15. Date of pancreatic cancer diagnosis: January 31, 2014.

16. If applicable, date of other injuries alleged in Paragraph 5: N/A.

17. If applicable, date of death: N/A.

DEFENDANTS NAMED HEREIN

(Check Defendants against whom Complaint is made)

Amylin Pharmaceuticals, LLC

Eli Lilly and Company

□ Merck Sharp & Dohme Corp.

☒ Novo Nordisk Inc.

CAUSES OF ACTION

(Counts in the Master Complaint brought by Plaintiff(s))

1 Count I – Strict Liability – Failure to Warn
2 Count II – Strict Liability – Design Defect
3 Count III – Negligence
4 Count IV – Breach of Implied Warranty
5 Count V – Breach of Express Warranty
6 Count VI – Punitive Damages
7 Count VII – Loss of Consortium
8 Count VIII – Wrongful Death
9 Count IX – Survival Action
10 Other Count(s): _____

11 Plead factual and legal basis for any Other Count(s) in separately numbered
12 Paragraphs (beginning with Paragraph 18) that provide sufficient information
13 and detail to comply with the applicable Federal Rules of Civil Procedure.

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16 PRAAYER FOR RELIEF AND, AS APPLICABLE,
17 PRAAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH
18 WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master
19 Complaint filed in MDL No. 2452.

20 JURY DEMAND

21 Plaintiff(s) hereby demands **does not** demand a trial by jury on all
22 issues so triable.

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3 Dated: September 3, 2020

RESPECTFULLY SUBMITTED,

4 By: /s/ Michael K. Johnson

5 Michael K. Johnson (MN Bar # 258696)

6 Timothy J. Becker (MN Bar # 256663)

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14 *Attorneys for Plaintiffs*

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